

**Incarceration Prevention and Reduction Task Force
Legal & Justice System Committee Meeting**

11:30 a.m. - 1:00 p.m., March 9, 2021, Remote-only virtual meeting

Members of the public joining the Zoom Webinar online or by phone will enter the meeting without audio or video controls. The Webinar Host will invite members of the public to speak at the appropriate time during the meeting.

Link to join Zoom Webinar:

<https://zoom.us/j/91552402911?pwd=Nm5oY3lXektFTVpLclBQekphQkxiQT09>

- Call in phone number: (253) 215 - 8782
- Webinar ID: 915 5240 2911
- Password: 17783

AGENDA

Meeting summary of the previous meeting is included at the end of the packet for information only. Committee members may suggest changes and/or corrections to the draft summary to jnixon@co.whatcom.wa.us. Audio recordings are the official meeting record and can be found on the IPRTF and committee [website](#).

Topic	Packet Page(s)
1. Call to Order Land Acknowledgement Statement: Before we begin, we acknowledge that we are gathered on the traditional and unceded territory of the Lummi, Nooksack, Samish and Semiahmoo People who have cared for and tended this land since time immemorial. Truth and acknowledgment are critical to building mutual respect and connection across all barriers of heritage and difference. We begin this effort to acknowledge what has been buried by honoring the truth. We pay respect to their elders past and present. Please take a moment to consider the many legacies of violence, displacement, migration, and settlement that bring us together here today. And please join us in uncovering such truths at any and all public events.	
2. Raylene King and Judge Mark Kaiman on Senate Bill (SB) 5226 (2020-2021) concerning the suspension of licenses for traffic infractions and concerns about the current law of DWLS 3rd RCW 46.20.342.1C	1 - 6
3. Washington State Supreme Court ruling on State v. Blake on RCW 69.50.4013 (1), Washington’s simple possession of controlled substance statute	See link
4. Discuss content to be included in the committee report for the IPRTF Annual Report	N/A
5. Introduction on plans to develop a strategy for external communications: Identify local agencies and groups who may be interested in receiving information on the work of the IPRTF	N/A
6. Identify a committee point person to operationalize GARE toolkit for the LJS Committee	N/A
7. Other Business 1:00-1:10	
8. Public Comment 1. If you would like to speak, virtually “raise your hand.” a. Online: select the Raise Hand icon b. Phone: Press *9	

2. When called upon to speak, unmute your microphone. Inform the Webinar Host if you would like to enable your video during your comments.
3. Please state your full name for the record.
4. Staff will disable your microphone when you are done speaking.

9. Adjourn

UPCOMING MEETINGS:

At this time, all meetings are held via remote-only virtual Zoom webinar					
<u>IPR TASK FORCE</u>	<u>COMMITTEES</u>				
Monthly on various Mondays 9-11 AM	<u>BEHAVIORAL HEALTH</u>	<u>LEGAL & JUSTICE SYSTEMS</u>	<u>CRISIS STABILIZATION FACILITY</u>	<u>INDEX</u>	<u>STEERING</u>
	Monthly, 3rd Tuesday 9:00-10:30 AM	Monthly, 2nd Tuesday 11:30 AM – 1:00 PM	Bi-monthly, 3rd Thursday 9:30-11:00 AM	Bi-monthly, 1st Thursday 1:30-3:00 PM	Various Thursdays 11:00 AM-12:30 PM
March 15 April 19 May 17	March 16 April 20 May 11, 11:30 (Joint)	March 9 April 13 May 11 (Joint)	March 18 May 20	March 4 May 6	March 4 April 8 May 6

The most up-to-date meeting schedule can be found online at:
[http://wa-whatcomcounty.civicplus.com/calendar.aspx?CID=40,](http://wa-whatcomcounty.civicplus.com/calendar.aspx?CID=40)

SENATE BILL REPORT

SB 5226

As Reported by Senate Committee On:
Law & Justice, February 15, 2021

Title: An act relating to the suspension of licenses for traffic infractions.

Brief Description: Concerning the suspension of licenses for traffic infractions.

Sponsors: Senators Salomon, Saldaña, Das, Frockt, Hasegawa, Kuderer, Lias, Lovelett, Muzzall, Nguyen, Nobles, Pedersen, Randall and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 2/04/21, 2/15/21 [DPS, DNP].

Brief Summary of First Substitute Bill

- Eliminates drivers' license suspension for the failure to pay, respond, or appear at a requested hearing for a traffic infraction for a moving violation.
- Authorizes the Department of Licensing (DOL) to reinstate all driver's licenses suspended for reasons that are no longer grounds for suspension.
- Requires DOL to take reasonable steps to notify anyone whose driver's license was suspended who may qualify for reinstatement, and create an online application process for people to use to determine whether they are eligible for reinstatement, within 90 days of the effective date of the legislation.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5226 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Darneille, Kuderer and Salomon.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Holy and Wagoner.

Staff: Shani Bauer (786-7468)

Background: Drivers License Suspension. No person may drive a motor vehicle on a roadway in the state without having a valid driver's license. It is unlawful for a person to drive a motor vehicle while that person's driver's license is suspended.

The Department of Licensing (DOL) is required to suspend an individual's driver's license when it receives notice from a court the person's license should be suspended for one of a variety of reasons, including when the person:

- has caused death or injury to a person by recklessly or unlawfully operating a motor vehicle;
- is subject to suspension due to the failure to pay child support or a civil judgment related to a motor vehicle crime;
- has been convicted of a moving violation or traffic infraction with such frequency as to indicate a disregard for the safety of others; or
- has failed to pay, respond, or appear at a requested hearing for a traffic infraction for a moving violation.

When DOL has suspended a person's driver's license, a new, duplicate, or renewal driver's license may not be issued until all requirements for reinstatement have been satisfied and a \$75 reissuance fee has been paid. This fee is increased to \$150 for suspensions due to driving under the influence offenses.

Driving While License Suspended or Revoked. If a person drives a motor vehicle in the state while their driver's license is suspended, they are guilty of a traffic offense. The degree of the offense varies based on the underlying reason for the driver's license suspension or revocation, with the severity ranging from a misdemeanor to a gross misdemeanor with specified minimum penalties.

If a person drives while their driver's license is suspended or revoked due to a failure to pay, respond, or appear at a requested hearing for a traffic infraction for a moving violation, the offense is driving while license suspended (DWLS) in the third degree, a misdemeanor. The penalty for DWLS in the third degree is up to a 90-day jail sentence or a fine up to \$1,000, or both.

Summary of Bill (First Substitute): Traffic Infractions. Failure to pay or respond to a traffic infraction or failure to appear at a hearing requested for contesting a traffic infraction will no longer result in the suspension or revocation of a person's driver's license. The form of infraction must give a person the option to admit responsibility for the infraction, but attest that the person does not have the current ability to pay the penalty in full. The person

must be informed of how to submit evidence of inability to pay and that failure to enter into a payment plan may result in collection action, including garnishment of wages or other assets.

The time period for a person to respond to a traffic infraction is increased from 15 days to 30 days from the date of the infraction.

Payment Plans. A person may request a payment plan at any time for the payment of any penalty, fee, cost, assessment, or other monetary obligation associated with a traffic infraction. Upon request, the court must enter into a payment plan with the individual. If the person does not enter into a payment plan and has not paid the monetary obligation in full, the court may refer any unpaid portion for collection 120 days from the date of the infraction.

Multiple Traffic Infractions. When a person has committed a traffic infraction for a moving violation on three or more occasions within a one year period, or four or more occasions in a two year period, DOL must revoke the license of the driver for a period of 60 days and provide for a one year probationary period after the suspension ends. During the probationary period, the person must complete a safe driving course as recommended by DOL. Any new traffic infraction committed during the probationary period or failure to complete the safe driving course will result in an additional 30 day suspension. DOL must send a warning letter to the driver when the driver will face suspension if committing an additional infraction. DOL may not charge a reinstatement fee at the end of the term of revocation. Multiple traffic infractions committed within a six-hour period constitute one occasion.

Reinstatement of Drivers Licenses. DOL is authorized to administratively reinstate the license of a person whose license has been suspended for the failure to pay, respond, or appear at a hearing for a traffic infraction. No later than 90 days after the effective date of this act, DOL must create an online application process for eligible persons to apply for reinstatement of their driver's license and take reasonable steps to publicize and notify persons who may be eligible for reinstatement of the ability to apply under this section.

Fees and Funding. A new account is created called the driver's licensing technology support account within the Highway Safety Fund. The account must be used only to support information technology systems used by DOL to communicate with the judicial information system, and manage driving records and implement court orders. The legislative assessment on traffic infractions is increased from \$20 to \$24 and \$4 of the assessment is allocated to the new account. A new \$2 assessment is created on traffic infractions similar to the judicial information system's assessment and it is deposited into the new driver's licensing technology support account. A new \$1 fee is created on all applications for an original or renewal for driver's licenses and identicards, to be deposited into the Highway Safety Fund.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

A person who attests on an infraction that they do not have the ability to pay must be informed of how to submit evidence of the inability to pay and that failure to enter into a payment plan may result in collection action, including garnishment of wages or other assets. The court must attempt to enter into a payment plan with a person who attests they do not have the ability to pay the infraction in full before sending the debt to collection. A \$4 fee increase is added to traffic infractions, which must be remitted to the state treasurer. Provisions addressing multiple infractions are moved to a separate section. Reissue fee is added for licenses that are currently suspended that DOL must reinstate. Technical language changes are made. A delayed effective date of March 1, 2022 is added.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on March 1, 2022.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill severs the link between a person's ability to pay a traffic infraction and suspension of their license. License suspension would only come into play if the person is a risk to public safety.

Those who do not have the ability to pay a traffic infraction do not have the means to avoid a cycle of debt nonpayment. The traffic infraction leads to penalties, license suspension, and eventually DWLS3. Without a driver's license, the person cannot hold down a job and does not have the ability to pay the fines. This leads to economic devastation for hundreds of families.

Forty-three thousand people were charged with DWLS3 in 2020. Suspended drivers represent one-third of the prosecutorial caseload and disproportionately impacts marginalized communities. This policy punishes people for being poor. It is time to stop criminalizing poverty and enter into reasonable solutions.

Payment plans are not effective—if they were, we would not have current proliferation of DWLS3.

Twelve states have eliminated failure to pay and eight have eliminated failure to appear. The argument that license suspension is the only mechanism to enforce payment is simply not true. Revenue in San Francisco County actually increased after adopting this policy because drivers were able to go back to work.

CON: We believe SB 5349 is a better option than this bill. It would maintain accountability and maintain funding for courts. It would provide a fair chance for people to resolve obligations without criminal history. This bill goes too far.

This bill removes all incentive for people to pay fines. There is a direct correlation between payment and license suspension. Since 2012, a person's license is only suspended for repeat violations. Tickets have zero impact on a person's credit rating while in collection. Citations are down 30 percent due Covid. We estimate revenue will be cut another 38 percent resulting from this bill. This bill places a large burden on courts without compensation to enter into these payment plans.

Collection companies allow a person to keep their license while accepting payments. Courts receive \$240,000 in payments every month at no cost to the courts. Payments are made for the sole reason that people do not want their license suspended. This bill will end this revenue stream at a time it is sorely needed.

There are many good options in place to assist people in getting their license back. Smaller cities will be hit especially hard by the drop in revenue and will not be able to fund courts.

We are in support of no longer suspending a driver's license for the failure to pay, but continue to oppose suspension for the failure to respond or failure to appear. There is a distinct difference between paying an infraction and ignoring the court. We support strengthening provisions that over-communicate to individuals their license will not be suspended for failure to pay.

OTHER: The implementation timeline in the bill is problematic. Court policies and forms need to be updated. We would ask for an effective date of January 1, 2023.

Persons Testifying: PRO: Corliss Samaniego; Jenna Robert, Seattle City Attorney's Office; Allister O'Brien, former legislator; Marla Murdock, Marla Murdock; Yolanda Quiroga, El Comité; Julianna Tesfu; Vicki Christophersen, Justice Action Network; Giovanni Severino, Progreso: Latino Progress; Cristina Ortega, Progreso: Latino Progress; Renee Kimball, impacted grassroots advocate; Nat Jacob, Jefferson Associated Counsel; Martha Ramos, Washington Drivers Relicensing Taskforce; Lee Newton, former executive secretary of the Washington Building & Construction Trades.

CON: Tammy Sund, Aberdeen Municipal Court; James McMahan, Washington Association of Sheriffs and Police Chiefs; Troy Peterson, PAR Court Payments; Mindy Chumbley, Washington Collectors Association; Kelsi Hamilton, Washington Collectors Association; Gwen Turner, Washington Collectors Association; Laura Olson, Court Account Management.

OTHER: Devon Connor-Green, Administrative Office of the Courts; Juliana Roe, Washington State Association of Counties; Paul Wohl, District and Municipal Court Judges

Association.

Persons Signed In To Testify But Not Testifying: No one.